

REMARKS/ARGUMENTS

Claims 1-30 are pending in the application. Claims 1-20 are subject to restriction and/or election requirement.

Restriction to one of the following Groups is required under 35 U.S.C. 121:

- I. Claims 1-23, in part, drawn to compositions of formula (I), wherein the variables n and m are as defined in claim 1; the heteroaryl of variable Ar represents pyridinyl, quinolinyl, or isoquinolinyl thereof; the variable R₁, R₂, R₄, or Z independently does not represent heteroaryl or heterocycle thereof; the variable R₁, R₂, R₄, or Z independently is not substituted with heteroaryl or heterocycle, classified in class 514/546 with various subclasses.
- II. Claims 1-23, in part, drawn to compositions of formula (I), wherein the variable n and m are as defined in claim 1: the heteroaryl of variable Ar represents furyl, thienyl, oxazolyl, thiazolyl, imidazolyl, isoazazolyl, isothiazolyl, indolyl, indazolyl, benzo[b]thienyl, pyrrolyl, imidazolyl, or pyrazolyl thereof; the variable R₁, R₂, R₄, or Z independently does not represent heteroaryl or heterocycle thereof; the variable R₁, R₂, R₄, or Z independently is not substituted with heteroaryl or heterocycle, classified in class 514/546/548/549 with various subclasses.
- III. Claims 1-23, in part, drawn to compositions of formula (I), wherein the variable n and m are as defined in claim 1: the heteroaryl of variable Ar represents quinazolinyl, pyrimidinyl, pyrazinyl, or pyridazinyl thereof; thereof; the variable R₁, R₂, R₄, or Z independently does not represent heteroaryl or heterocycle thereof; the variable R₁, R₂, R₄, or Z independently is not substituted with heteroaryl or heterocycle, classified in class 514/544/546 with various subclasses.
- IV. Claims 1-23, in part, drawn to compounds of formula (I), receiving compounds not encompassed in Groups I-III, classified in class 514/540/544/546/548 with various subclasses.
- V. Claims 24-30, in part, drawn to method of use (i.e., treating inflammation), containing compounds of Group I, classified in class 514/546 with various subclasses.
- VI. Claims 24-30, in part, drawn to method of use (i.e., treating inflammation), containing compounds not encompassed in Group I, classified in class 514/540/544 with various subclasses.

Applicants elect the invention of Group I for further prosecution in this application. This election is made with traverse. Applicants elect compound number 13, N,N-diethyl-4-[3-pyridylmethyl(1-propylpiperidin-4-yl)amino]benzamide, as the single species for the search purpose. Applicants reserve the right to file divisional applications on the non-elected subject matter.

In requesting restriction the Examiner has concluded that the Markush group set forth in the claims includes both independent and distinct inventions, and patentably distinct compounds (or species) within each invention; that the application discloses and claims a plurality of patentably distinct inventions far too numerous to list individually; and that each of these inventions contains a plurality of patentably distinct compounds, also too numerous to list individually.

Restriction of a Markush group is deemed to be proper where the compounds within the group either (1) do not share a common utility, or (2) do not share a substantial structural feature disclosed as being essential to that utility. The Markush groups referred to by the Examiner are part of the substituents Ar, R₁, R₂, and R₄. All of the compounds are delta-opioid receptor modulators useful for treating immune disorders, inflammation, neurological conditions, psychiatric conditions, drug abuse, alcohol abuse, gastritis, diarrhea, cardiovascular disorders or respiratory disorders. Restriction of the Markush group, therefore, is not deemed to be proper since the compounds containing the Markush groups in question all share a common utility.

The core of each of the claimed compounds is a piperidinyl ring. A nitrogen is attached to the piperidinyl ring and the phenyl and Ar substituent are attached to the nitrogen through an alkylene group. All of the claimed compounds, therefore, share a substantial structural feature which is essential to that utility.

The Examiner has indicated that each invention set listed above is directed to or involves the use or making of compounds which are recognized in the art as being distinct from one another because of their diverse chemical structure, their different chemical properties, modes of action, different effects and reactive conditions. The Examiner has not pointed out in what way the inventions differ in structure or how their chemical properties differ. In addition the Examiner has not shown what different modes of action are possessed by the various inventions or what different effects and reactive conditions they exhibit.

All of the inventions in Groups I-VI fall within classes 514/540/544/546/548/549. It is submitted that the examination of all of the claims in one application would not, therefore, impose a serious burden on the examiner to perform a complete search of the defined areas.

Reconsideration of the requirement for restriction is courteously requested.

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